

**PT 98-10**

**Tax Type: PROPERTY TAX**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**HARVARD PARK BAPTIST CHURCH**  
**Applicant**

**v.**  
**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**Docket # 95-84-10**  
**Parcel Index # 22-03.0-355-031**

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**RECOMMENDATION FOR DISPOSITION**

**Synopsis:**

The hearing in this matter was held on February 5, 1997, at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, to determine whether or not Sangamon County Parcel Index No. 22-03.0-355-031 qualified for exemption from real estate taxation for the 1995 assessment year.

Dr. John Charlton, III, pastor of the Harvard Park Baptist Church (hereinafter referred to as the "Applicant") and Mr. Mark Harwood, Co-Chairman, of the Stewardship Ministry of the applicant were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant is a religious organization; secondly, whether the applicant owned this parcel during the 1995 assessment year; and lastly, whether the applicant used this parcel as a parking lot during the 1995 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is also determined that the applicant owned this parcel during the 1995 assessment year. It is further determined that this parcel and the house

thereon were vacant and unused during the 1995 assessment year. The exemption of this parcel is therefore denied for 1995.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue did not qualify for exemption for the 1995 assessment year, was established by the admission in evidence of Department's Ex. Nos. 1 through 5A.

2. Mr. Harwood testified that he had a conversation with Pastor Charlton in which Pastor Charlton stated that during the telephonic pre-trial, I advised him that it would be prudent for the applicant to be represented by legal counsel. Mr. Harwood went on to state that they discussed that suggestion and decided to proceed without counsel. (Tr. p. 8)

3. The constitution of the applicant sets forth its purpose in part as follows:

The purpose of this Church shall be the advancement of the Kingdom of God. (Dept. Ex. No. 1H)

4. The constitution also provides that the applicant is affiliated with the American Baptist Churches in the U.S.A. (Dept. Ex. No. 1H)

5. During 1995, the applicant held worship services on Sunday mornings and Wednesday evenings. (Tr. p. 14)

6. During 1995, the applicant had 150 members and an average attendance of 87. (Tr. pp. 14 & 17)

7. On July 29, 1992, the applicant entered into a contract for deed with Charles E. Jennings and Ellen S. Jennings to purchase the parcel here in issue and the house thereon. (Dept. Ex. No. 1G)

8. On March 5, 1995, Charles E. Jennings and Ellen S. Jennings executed an Addendum to the contract for deed which stated that all of the terms of the contract with the applicant were satisfied on December 10, 1992. (Dept. Ex. No. 1F)

9. Charles E. Jennings and Ellen S. Jennings conveyed this parcel and the house thereon to the applicant by a warranty deed dated March 3, 1995. (Dept. Ex. No. 1B)

10. Mr. Harwood testified that the parcel here in issue was vacant and unused from January 1, 1995, through December 31, 1995. He also testified that the house on this parcel was vacant and unused during this same period. (Tr. pp. 14 & 15)

11. The applicant purchased this parcel and the house thereon, which contained two apartments, with the intention of making this parcel into a parking lot. In approximately February of 1993 the natural gas for heating the house was turned off, and the pipes froze and burst. After that time the house remained vacant and unused. The applicant then began a fund raising campaign to raise the money to demolish the house on this parcel and to make it into a parking lot. (Tr. p. 16)

12. After raising the money, the applicant proceeded to demolish the house on this parcel on April 13, 1996. (Tr. p. 14)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . and not leased or otherwise used with a view to profit, is exempt, . . .

35 **ILCS** 200/15-125 exempts certain property from taxation in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986).

I conclude that the applicant has established that it is a religious organization.

In the case of Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978), the Court held that the ministry, the contract purchaser pursuant to a contract for deed, was the owner of the real estate in question, for real estate tax exemption purposes. I therefore conclude that the applicant was the owner of this parcel during 1995, for real estate exemption purposes.

In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt. In the case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983), the Court held that property which was vacant and not used, did not qualify for the statutory exemption as property used exclusively for religious purposes, regardless of the owner's intent. Since this parcel and the dwelling thereon were vacant and not used during all of the 1995 assessment year, I conclude that this parcel did not qualify for exemption during the 1995 assessment year.

Once the house is demolished and the applicant begins to use this parcel for parking, I would respectfully suggest that the applicant reapply for exemption for this parcel.

I therefore recommend that Sangamon County Parcel Index No. 22-03.0-355-031 remain on the tax rolls for 1995 and be assessed to the applicant.

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George H. Nafziger  
Administrative Law Judge

January 12, 1998